

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**ANTHONY BESTER, also known as  
A. BESTER,**

**Plaintiff,**

**v.**

**9:20-CV-0852  
(TJM/ML)**

**OFFICER N. YANDO, OFFICER B. SHERWOOD,  
SGT. M. LYONS, AND NURSE N. RUSSO,**

**Defendants.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION and ORDER**

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Miroslav Lovric, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). In addressing Defendants' motion for summary judgment, Dkt. No. 21, Judge Lovric concluded that Defendants established that Plaintiff had not exhausted his administrative remedies on his claims before commencing this action, as required by the Prison Litigation Reform Act. See 01/20/21 Rep.-Rec. & Ord., Dkt. No. 24. Therefore, Judge Lovric recommends that Defendants' motion for summary judgment be granted and that the Amended Complaint be dismissed without prejudice. *Id.*

No objections to the Report-Recommendation and Order dated January 20, 2021 have been filed, and the time to do so has expired. Furthermore, after examining the

record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice.

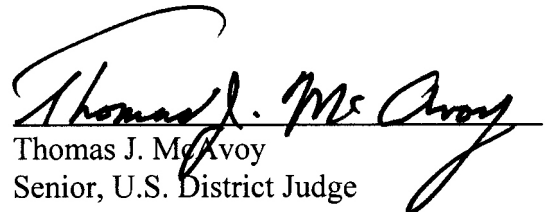
Accordingly, the Court **ACCEPTS** and **ADOPTS** the Report-Recommendation and Order (Dkt. No. 24) for the reasons stated therein. It is therefore

**ORDERED** that Defendants' motion for summary judgment (Dkt. No. 21) is **GRANTED**, and the Amended Complaint (Dkt. No. 19) is **DISMISSED WITHOUT PREJUDICE**.

The Clerk of the Court may close this file.

**IT IS SO ORDERED.**

Dated: September 1, 2021

  
Thomas J. McAvoy  
Senior, U.S. District Judge